



2007 ASSEMBLY BILL 224

March 27, 2007 – Introduced by Representatives PRIDEMORE, TOWNSEND, HINES, OWENS, HAHN, MUSSER, ALBERS, GUNDERSON and J. OTT. Referred to Committee on Judiciary and Ethics.

1 **AN ACT** *to create* 146.997 (5m) of the statutes; **relating to:** immunity from
2 liability for a health care provider, health care facility, or employee of a health
3 care provider or health care facility that, in good faith, reports a violation of the
4 law or of a clinical or ethical standard by another health care provider, health
5 care facility, or employee of a health care provider or health care facility.

Analysis by the Legislative Reference Bureau

Under current law, a physician who in good faith provides the Medical Examining Board with information concerning an allegation that another physician has engaged in unprofessional conduct or acted negligently in treating a patient is immune from liability for any damage that results from any act or omission in providing the information and may not be disciplined by that board for providing the information.

Also, current law prohibits retaliation or other employment discrimination against any employee of a health care facility or of a health care provider who in good faith reports any information, the disclosure of which is not expressly prohibited by law, that would lead a reasonable person to believe that the health care facility or health care provider, or an employee of the health care facility or health care provider, has committed a violation of the law or has provided a health care service of a quality that violates any standard established by law or any clinical or ethical standard established by a professionally recognized accrediting or standard-setting body (clinical or ethical standard) and that poses a potential risk to public health or

ASSEMBLY BILL 224

safety: 1) to any appropriate state agency; 2) to any professionally recognized accrediting or standard-setting body that has accredited, certified, or otherwise approved the health care facility or health care provider (accrediting or standard-setting body); 3) to any officer or director of the health care facility or health care provider; or 4) to any employee of the health care facility or health care provider who is in a supervisory capacity or in a position to take corrective action (supervisor). In addition, current law prohibits retaliation or other employment discrimination against any employee of a health care facility or health care provider who initiates, participates in, or testifies in any action or proceeding in which such a violation is alleged or who provides to any legislator or legislative committee any information relating to such an alleged violation.

This bill provides for immunity from liability for any health care provider, health care facility, or employee of a health care provider or health care facility that in good faith does any of the following:

1. Reports any information, the disclosure of which is not expressly prohibited by law, relating to an allegation that another health care provider, health care facility, or employee has provided a health care service of a quality that violates any standard established by law or any health care provider or health care facility has committed a violation of the law or has provided a health care service of a quality that violates any standard established by law or any clinical or ethical standard and that poses a potential risk to public health or safety, has engaged in unprofessional conduct, or has acted negligently in treating a patient to any appropriate state agency; to any accrediting or standard-setting body; or to any officer, director, or supervisor of the health care facility or health care provider.

2. Initiates, participates in, or testifies in any action or proceeding in which it is alleged that another health care provider, health care facility, or employee of a health care provider or health care facility has committed a violation of the law or has provided a health care service of a quality that violates any standard established by law or any clinical or ethical standard and that poses a potential risk to public health or safety, has engaged in unprofessional conduct, or has acted negligently in treating a patient.

3. Provides to any legislator or legislative committee any information relating to an allegation that another health care provider, health care facility, or employee of a health care provider or health care facility has committed a violation of the law or has provided a health care service of a quality that violates any standard established by law or any clinical or ethical standard and that poses a potential risk to public health or safety, has engaged in unprofessional conduct, or has acted negligently in treating a patient.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

ASSEMBLY BILL 224

1 146.997 (5m) IMMUNITY FROM LIABILITY. (a) Any health care provider, health
2 care facility, or employee of a health care provider or health care facility that in good
3 faith reports or provides any information, or that in good faith initiates, participates
4 in, or testifies in any action or proceeding, is immune from all civil and criminal
5 liability that may result from any act or omission in reporting or providing that
6 information, or in initiating, participating in, or testifying in that action or
7 proceeding, as follows:

8 1. Reports to a person specified in sub. (2) (a) (intro.) any information, the
9 disclosure of which is not expressly prohibited by any state law or rule or federal law
10 or regulation, relating to an allegation that another health care provider, health care
11 facility, or employee of a health care provider or health care facility has committed
12 a violation specified in sub. (2) (a) 1. or 2., has engaged in unprofessional conduct, or
13 has acted negligently in treating a patient.

14 2. Initiates, participates in, or testifies in any action or proceeding in which it
15 is alleged that another health care provider, health care facility, or employee of a
16 health care provider or health care facility has committed a violation specified in sub.
17 (2) (a) 1. or 2., has engaged in unprofessional conduct, or has acted negligently in
18 treating a patient.

19 3. Provides to any legislator or legislative committee any information relating
20 to an allegation that another health care provider, health care facility, or employee
21 of a health care provider or health care facility has committed a violation specified
22 in sub. (2) (a) 1. or 2., has engaged in unprofessional conduct, or has acted negligently
23 in treating a patient.

24 (b) For purposes of par. (a), a health care provider, health care facility, or
25 employee of a health care provider or health care facility is not acting in good faith

ASSEMBLY BILL 224**SECTION 1**

1 if the health care provider, health care facility, or employee reports any information
2 under par. (a) 1. that the health care provider, health care facility, or employee knows
3 or should know is false or misleading; initiates, participates in, or testifies in any
4 action or proceeding under par. (a) 2. based on information that the health care
5 provider, health care facility, or employee knows or should know is false or
6 misleading; or provides any information under par. (a) 3. that the health care
7 provider, health care facility, or employee knows or should know is false or
8 misleading.

9 **SECTION 2. Initial applicability.**

10 (1) IMMUNITY FROM LIABILITY FOR HEALTH CARE PROVIDERS, FACILITIES, AND
11 EMPLOYEES. This act first applies to a health care provider, health care facility, or
12 employee of a health care provider or health care facility that reports or provides
13 information, or that initiates, participates in, or testifies in any action or proceeding,
14 as described in section 146.997 (5m) (a) of the statutes, as created by this act, on the
15 effective date of this subsection.

16 (END)